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ABSTRACT

This mock trial curriculum is intended to help high school students learn about the law and the legal system. The curriculum is divided into the following sections: Statement of the Case, Stipulations, Legal Authorities, Witness Statements/Narrative Report (Prosecution Witnesses; Defense Witnesses), and Exhibits (Statement of Miranda Rights; Front Cover of Playbill from "The Smoking Gun"; Diagram of Crime Scene; Norton High Conduct Report; Note from Detention Study Hall; Information). (BT)

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1999-2000
OKLAHOMA HIGH SCHOOL
MOCK TRIAL PROGRAM

STATE OF OKLAHOMA

V.

TRACY SMITH

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OKLAHOMA BAR ASSOCIATION

Prepared by
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1999-2000
Oklahoma High School
Mock Trial Program

STATE OF OKLAHOMA
V.
TRACY SMITH

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IN THE DISTRICT COURT OF NORTON COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA, Plaintiff,	)	
vs.	)	CF-99-23
TRACY SMITH, Defendant.	)	

STATEMENT OF THE CASE

Norton, Oklahoma is a town of approximately 30,000 people. It has one high school, Norton High, with a student population of about 600. As is common at any school, many of the students at Norton High hang out in groups with other students who share their common interests. Two of these groups include the student athletes and the students interested in drama. Although there are some students who are involved in both athletics and drama, there are others who participate in only one or the other type of activity.

While most of the students generally get along with each other despite their differing interests, there have been some recent instances in which some student athletes and some students from the drama club have engaged in verbal altercations. One such instance occurred on January 15, 1999 between Tracy Smith and Pat White, both drama students, and Lee Jones, a student athlete. The incident was observed by the high school principal, Taylor Fitts, who noted the incident in a written conduct report and placed all three students in detention for a week.

The animosity between Smith and Jones was not lessened by the principal's reprimand and punishment. About one month later, on February 19, 1999, another incident occurred at approximately 2:00 p.m. in the hall at Norton High by Tracy Smith's locker. That incident gave rise to this case.

Tracy Smith will testify that s/he was standing at his/her locker in the hall at approximately 2:00 in the afternoon on February 19, 1999. S/He was showing his/her friend Pat White a fake gun that had been used as a prop in the recent drama club production of "The Smoking Gun," when Smith and White were approached from behind by Lee Jones. When Jones started to loudly berate and antagonize Smith, Smith became angry, turned around with the gun in his/her hand and confronted Jones. The two engaged in a heated argument until Jones noticed the gun in Smith's hand. At this point, Jones began to back away from Smith claiming that s/he "didn't mean anything by it" and asking Smith not

to shoot. Smith will testify that as this happened, s/he noticed Officer Alex Ander running toward him/her. The class bell rang and kids started coming out into the hall. Smith remembered that s/he was holding the fake gun and panicked. S/He ran through the hall crowded with students and headed for the front door of the school. When s/he got to the front door s/he noticed that s/he was no longer carrying the gun - s/he had dropped it somewhere along the way. Smith left the building and ran home.

Lee Jones will testify that s/he was walking down the hall at the high school when s/he noticed Tracy Smith standing at his/her locker with Pat White. Jones had engaged in a previous dispute with Smith and decided to talk to Smith and try to smooth things over. When Jones approached them, Smith turned around and started arguing with Jones again. When Jones responded, Smith raised his hand and pointed a gun at him/her. S/He will testify that he believed the gun was real. Smith threatened to "shut Jones up for good." As Jones started backing away from Smith, Smith turned and ran away. At this same time, the class bell rang and students started pouring into the hall. Smith ran through the confusion and Jones lost sight of him.

The gun at issue was never recovered.

Smith was arrested later that afternoon and is now facing jury trial on charges of Possession of a Firearm on School Property and Felonious Pointing of a Firearm. Smith will testify in his/her own defense. The Defense will also call Pat White and Kerry Stevens as witnesses. The Prosecution will call Lee Jones, Taylor Fitts and Officer Alex Ander as witnesses.

Note: This Case Summary is for background purposes only and may not be used as evidence in the Mock Trial. If information provided in the Case Summary differs from information set forth in the witness statements or stipulated exhibits, the witness statements and stipulated exhibits control. All names, characters, and locations are fictitious. Any resemblance to real people or places is unintended.

IN THE DISTRICT COURT OF NORTON COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA, Plaintiff,	)	
vs.	)	CF-99-23
TRACY SMITH, Defendant.	)	

STIPULATIONS

The following have been stipulated to by the parties:

1. The District Court ruled, in an evidentiary hearing held prior to trial, that the defendant, Tracy Smith, was properly advised of his/her rights via a Miranda warning administered by the interrogating officer. The Court also found that Smith's waiver of those rights was knowingly and voluntarily given.

2. All signatures which appear on written statements are authentic, and all statements were properly sworn to by their makers at the time they were written as being true and accurate to the best of the knowledge and recollection of each witness.

3. All exhibits are authentic and are accurate in every respect. Authenticity of the exhibits need not be established for admission at trial.

4. Chain of custody is proper with respect to each of the exhibits.

5. All exhibits were obtained in conformity with all pertinent search and seizure requirements.

6. The crime scene diagram is a reasonably accurate depiction of the scene. The parties agree, and the District Court has agreed, that the one-page diagram of the crime scene may be enlarged by either party, with the following conditions:

    a. The diagram may only be enlarged to the size of 18" x 24" (measured from edge to edge of the paper, not edge to edge of the drawing);

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b. The diagram may only be enlarged by means of photocopying equipment, it may not be reproduced or recreated in any other manner; and

c. The diagram may only be reproduced in black ink on white paper, no colors may be used on any portion of the diagram.

d. A violation of any of these conditions will result in the assessment of a 20 point penalty against the offending team, to be assessed by the Scoring Panelists. Each team will be afforded the opportunity to examine its opponents enlarged exhibit, just prior to the commencement of the mock trial round. Any purported violation must be reported immediately to the Trial Site Coordinator, who will be required to instruct the Scoring Panelists to assess the twenty point penalty.

THE STATE OF OKLAHOMA, Plaintiff,	)	
vs.	)	CF-99-23
TRACY SMITH, Defendant.	)	

LEGAL AUTHORITIES

In order for a jury to find Tracy Smith guilty of Felonious Pointing of a Firearm, the Prosecution must prove beyond a reasonable doubt, or the parties must stipulate to, each of the following elements of the crime:

1. Willfully;
2. pointing a shotgun, rifle or pistol, whether loaded or unloaded;
3. at any person;
4. either, a) for the purpose of threatening; b) with the intention of discharging the firearm; c) with any malice; d) for any purpose of injuring, either through physical injury or emotional intimidation; e) for purposes of whimsy, humor or a prank; or f) in anger or otherwise.

In order for a jury to find Tracy Smith guilty of Possession of a Firearm on School Property, the Prosecution must prove beyond a reasonable doubt, or the parties must stipulate to, each of the following elements of the crime:

1. Willful;
2. possession of a firearm;
3. on school property.

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Statute #1: Possession of a Firearm on School Property

It shall be unlawful for any person, except a peace officer, to willfully have in his or her possession on any public or private school property, any firearm, whether it be a shotgun, rifle or pistol.

"School property" means any publicly owned property held for purposes of elementary, secondary or vocational-technical education.

Any person violating the provisions of this statute shall, upon conviction, be guilty of a felony.

Statute #2: Felonious Pointing of Firearms

It shall be unlawful for any person to willfully point a shotgun, rifle or pistol, whether loaded or not, at any person for the purpose of threatening or with the intention of discharging the firearm or with any malice or for any purpose of injuring, either through physical injury or emotional intimidation or for purposes of whimsy, humor or prank, or in anger or otherwise.

Any person violating the provisions of this statute shall, upon conviction, be guilty of a felony.

Statute #3: Pistol Defined

"Pistol," shall mean any firearm capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels less than sixteen (16) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include flare guns, underwater fishing guns or blank pistols.

Case Law # 1:

It is not a defense to either Possession of a Firearm on School Property or Felonious Pointing of Firearms that the firearm was not loaded.

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WITNESS STATEMENT OF LEE JONES

(Prosecution Witness - Victim)

Witness: Lee Jones
872 W. Olive
Norton, Oklahoma

Date: February 19, 1999
Time: 3:30 p.m.

My name is Lee Jones. I'm seventeen years old and a junior at Norton High. I have lived in Norton all my life and have gone to school in Norton since Kindergarten. I like school and get along with most of the kids. I'm actually pretty popular. I'm really involved in athletics and most of my good friends are athletes as well. Athletes are pretty well known in school because athletics are a big deal in Norton. Everyone in town usually comes out to the games.

Like I already said, I get along pretty well with most of the other students but not everyone. Some kids think that if you're popular and an athlete you must be a snob or stupid. I hate those stereotypes! For instance, there are some kids who belong to the drama club who hate me just because I am popular and athletic. Usually they don't actually say anything directly to me, but they make comments and laugh when I pass them in the hall. Pat White called me something every once in a while, but the person who is always trying to get at me is Tracy Smith. S/He moved here a couple of years ago from Kansas City and you could tell that s/he hated being stuck in a small 'hick' town. S/He didn't hang out with anyone for a while and then s/he got involved with the drama club. Once s/he got used to the place and got to know a few people Tracy started getting pretty sure of him/herself. One day in January, after Christmas break, I was walking in the hall and I passed Tracy and Pat White. Tracy bumped into me and dropped his/her books. What a klutz! As I was walking away, I heard Tracy call me a dumb jock and the two of them started laughing at me. That made me mad and I asked them if they had anything they wanted to tell me to my face. I think I may have called them drama geeks, but I wouldn't have if I'd have known that it would set them off like it did. Tracy started in on me and I was talking back to him/her and I guess the whole thing must have gotten pretty loud because before I knew it Principal Fitts was standing right there. S/He was mad at us all and gave all three of us a week detention. That really stunk! I had to miss a bunch of practice all because of Tracy Smith's big mouth!

I was mad at Tracy for a while after that. I made a point of staying away from him/her so that we wouldn't get into it again. After a while, though, I got tired of avoiding Tracy and I decided to go talk to him/her and try to work something out. The school is small and its kind of an inconvenience to avoid someone all the time. On the afternoon of February 19, I was walking in the hall when I saw Tracy and Pat standing by Tracy's locker. They were facing Tracy's locker with their backs to me. I decided to go talk to Tracy and try to work out

our differences. When I approached him/her, s/he turned around and just started in on me again. It was unreal. I tried to explain why I had come up to talk to him/her, but s/he just wouldn't listen. The whole thing seems surreal, but I remember Tracy telling me that s/he'd had all s/he was going to take from me. S/He threatened to "shut me up for good." Tracy was all excited and was sort of waiving his/her arms around as s/he talked and I noticed that s/he was holding a gun. That really scared me.

When I saw the gun pointed at me I started backing away from Tracy telling him/her that I didn't mean anything by it. I was talking about our earlier argument still trying to smooth things over and calm him/her down. All of a sudden, Tracy just turned and started to run away from me down the hall. The class bell rang at the same time and kids started coming into the hall. I lost sight of Tracy in the middle of all the confusion. Looking back, it all seems so weird and unreal but one thing I can say for sure is that the gun Tracy was holding was real. It looked very real to me and I was only about a foot or two away from it before I started backing away.

SIGNED: Lee Jones
Lee Jones

NARRATIVE REPORT OF OFFICER ALEX ANDER

(Prosecution Witness)

NORTON POLICE DEPARTMENT — REPORT # 02-12
REPORTING OFFICER: Officer Alex Ander — DATE: 02/19/99

My name is Alex Ander. I grew up in Norton and graduated from Norton High School. After graduating, I signed up for the Army's college program and went to State College for four years to study police administration. I graduated from State College with a bachelor's degree and then served with the Army, which had paid for my college education. I served as a Military Police Officer and later received an honorable discharge from the Army.

During my service as an MP, I was instructed in several firearms courses. My training in those courses included the use and identification of firearms. Later, during my service, I became a certified instructor for firearms courses. I developed a manual on firearms identification which was adopted by the Army for use in its firearms courses. After leaving the Army, I worked for two years at the State Police Academy as a Special Weapons and Tactics instructor. Additionally, I have made several appearances on the Law Enforcement Training Network to talk about firearm forensics. I now work at the Norton Police Department, where I am in charge of continuing officer training.

On my days off from the Police Department, I work an extra job as a security officer at the high school. On February 19, 1999, at approximately 1400 hours, I was on routine patrol in the south hallway of Norton High. As I approached the corner of the south and west hallways, I heard someone shout "don't shoot!" I looked around the corner into the west hallway and observed two subjects standing in the hallway near the lockers. They were about a quarter of the way down the west hallway - approximately twenty-five feet away from me.

One subject, who was later identified as Lee Jones, had his/her back toward me and was holding up his/her arms while walking backwards. Standing in front of Jones, to the left, was Pat White. White was facing south toward me. As Jones backed up, I could see a third person in front of him/her. This third person was identified at Tracy Smith. I observed Smith holding a stainless steel revolver in his/her right hand. S/He was excited and pointing the gun at Jones. As I entered the west hallway I drew my service revolver and ordered him/her to drop the firearm. About this time, the bell rang and students began to enter the hallways. Some students heard me order the subject to drop the gun and several of them dropped to the floor. Even more students entered the hallway unaware of what was happening. Smith began running north toward the main entrance of the school.

I tried to follow Smith but my view of him/her was blocked as more students entered the hallway. When I reached the main entrance I went outside and looked for Smith. S/He was nowhere in sight. I went back in the school and searched for Smith in the hallways and classrooms. I was unable to find either Smith or the weapon used in the incident. Although I was unable to locate the firearm, I was able to identify it on sight as a Python .38 Special. This is the same kind of gun I used in the Police Academy. I am very familiar with this type of gun and it is my opinion that the gun Smith was carrying was real.

SIGNED: Officer Alex Ander

Officer Alex Ander

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WITNESS STATEMENT OF TAYLOR FITTS

(Prosecution Witness)

Witness: Taylor Fitts
316 W. Terrace
Norton, Oklahoma

Date: February 21, 1999
Time: 3:30 p.m.

My name is Tayor Fitts. I am head principal of the Norton High School. It is the only public high school in Norton. I have been head principal at Norton for five years. Before that I was assistant principal at Norton High for ten years. I also taught high school social studies for two years and helped coach basketball before becoming an assistant principal. I have a bachelor's degree in secondary education and my master's in secondary education administration. While I was in college I played basketball.

I enjoy my job. I especially enjoy working with the students and seeing them grow over the four years they spend at Norton High. Norton has many of the same problems as any other American high school. Most of the problems I have with students involve tardiness or truancy. On occasion, there is a fight. In the past, most fights were between boys fighting over girls or girls fighting over boys. Recently, though, it seems that most disputes arise over name-calling. That is, students insulting each other. It seems that most of the insults involve the different cliches in the school.

Norton has several kinds of cliches, including the "book worms," astronomy club, band, drama club and athletes, to name a few. Most of these groups seem to get along fine but we have had a few flare ups between some athletes and drama club members. Some of the athletes and drama students cannot seem to get along. I have had to break up several altercations between these two interest groups.

About a month ago, on January 15, 1999, I was monitoring the halls around 1:00 p.m. while the students were between class periods. As I walked around the corner to the west hall, Lee Jones passed Tracy Smith and Pat White in the hall. As they did this, Lee and Tracy ran into each other and Tracy dropped his/her books. Lee and Tracy clearly exchanged words but I could not hear exactly what was said. Pat White was nearby and I did hear him/her yell "Watch out, jock!" In an instant, Lee and Tracy were in each other's face. I was able to get to them before the incident went any further. According to Lee, Tracy had run into him/her on purpose and called Lee a "dumb jock." According to Tracy, Lee bumped into him/her or purpose. Tracy complained that Lee would do this every time they passed in the halls. Tracy said that Lee called him/her a "drama geek." Tracy staunchly denied picking the fight. I took all three - Lee, Tracy and Pat - to my office.

This is not the first time I have had to break up these three. Previously, I had given warnings, but this time all three individuals were written up in a conduct report and were placed on detention for a week. I'm sick of this behavior and have adopted a "no tolerance" policy. Tracy was visibly upset about having to miss drama practice for the new school play. S/He had the lead role. Lee was also upset because s/he would miss basketball practice for a week and would not be able to play in that week's game. Although Lee and Tracy were both very upset about the punishment, I felt it was necessary to put an end to these senseless disputes.

I supervised detention the week these three were on detention. As is normal, I made everyone in detention work on homework and then, at the end of the hour, I walked around the class and collected everyone's homework. One of the sheets of paper handed in that day was a note written between two people. Even though there was no name at the top - this person hadn't even started their homework, I could tell the note had been written by Pat and Tracy. I know this because this paper was on top of the stack of papers I collected. On that day, the last "homework" that I collected was from Pat. Pat and Tracy had been sitting apart from the rest of the students in the back corner of the classroom and they were not paying attention as I approached to get their homework. In fact, neither noticed me until I asked for the papers they had been working on. Pat seemed hesitant to give me his paper but I didn't know why until later when I reviewed the stack of homework. The paper Pat had turned in was not homework at all, but rather a threatening note. I decided to put it in a file. Although I was going to talk to Pat and Tracy about this note, I never got around to it. In fact, I forgot it was in my files until the incident with the gun that happened a few days ago.

SIGNED: Taylor Fitts
Taylor Fitts

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WITNESS STATEMENT OF TRACY SMITH

(Defense Witness - Defendant)

Witness: Tracy Smith
265 N. Elm
Norton, Oklahoma

Date: February 20, 1999
Time: 10:00 a.m.

My name is Tracy Smith. I am eighteen years old and a senior at Norton High. My family moved to Norton from Kansas City a couple of years ago when I was a sophomore. I didn't have many friends at first and I didn't like school. When I started school at Norton High, my homeroom teacher was Mr/s. Stevens. S/He knew that I was having a hard time getting to know people and s/he tried to get me involved in some activities where I could get to know some kids. First, s/he tried to get me involved in debate, but I didn't really like it. When auditions opened for the school play - "My Fair Lady" - Mr/s. Stevens talked me into trying out for a part. I was a little uncomfortable, but I tried out for a small part - one of the street people - and I got it. Even though I didn't do much - I only had one or two lines - I had fun going to play practice and I got to know a lot of the other kids involved. I met my best friend, Pat White, at play practice. Anyway, I joined the drama club and have been involved in school plays ever since. A few weeks ago the drama club finished its production of "The Smoking Gun." I had the lead role.

Now that I've been here at Norton High for a couple of years I have a lot of friends and I like school for the most part. Most of my friends are involved in the drama club but not all of them. I get along with most students, but not everyone. Some of the students involved in athletics think that they are better than everyone else, but the only one I've really had a problem with is Lee Jones. During "The Smoking Gun" Lee started harassing me whenever s/he saw me in the hall. S/He would shove me and make me drop my books when s/he passed me and call me names like "drama geek." I know its not really a big deal but I just got really sick of it. One day when Lee started in on me I told him/her to cut the crap and just lay off me. We started getting into it and yelling at each other when the principal, Mr/s. Fitts walked around the corner and saw us. Pat White just happened to be there and we all got put in detention for a week. I had to miss play practice which really made me mad. If Lee hadn't started in on me in the first place it never would have happened. Lee stayed away from me for a few weeks after that, but I knew it was just a matter of time before s/he would start back in again.

"The Smoking Gun" was a pretty cool play. I really liked the props in this play. There was one gun that I got to use that looked so real. There was a picture of it on the cover of the play bill. When the play had closed, I went to the prop room one day and took the gun. I put it in my locker because I wanted to

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show it to some of my friends. One afternoon when I was showing the gun to Pat, Lee Jones came up behind me and started in on me again. I turned around to confront him and tell him to lay off. I was pretty mad and was probably waving my arms around, I have a tendency to be dramatic, you know, when I noticed Lee start to back away from me. S/He put his hand up and said, "I didn't mean anything by it." Then s/he asked me not to shoot. I didn't know what s/he was talking about at first and then I looked down and saw the gun in my hand. At this same time, I looked behind Lee and noticed Officer Ander running toward me with his gun drawn. S/He yelled "Drop the gun!" at me and I just panicked. The class bell rang and kids started coming out into the hall. I started running through the crowded hall - I guess I was headed for the front door of the school. When I got to the front door I noticed that I had lost the gun. I must have dropped it somewhere along the way. I just took off and ran home.

SIGNED: Tracy Smith
Tracy Smith

WITNESS STATEMENT OF PAT WHITE

(Defense Witness)

Witness: Pat White
1002 W. Oak, Apt. #4
Norton, Oklahoma

Date: February 23, 1999
Time: 1:00 p.m.

My name is Pat White and I'm a senior at Norton High School. Tracy Smith is my best friend. Tracy and I became friends when Tracy moved here a couple of years ago. I first met Tracy when s/he started coming to drama club meetings. I had been in drama club since my freshman year, but Tracy didn't start until our sophomore year. We got to know each other when we were cast together in "My Fair Lady." We both had really small parts and that gave us a lot of dead time when we were just sitting around with nothing to do - it just doesn't take that long to learn two lines - so we spent a lot of time talking to each other during play practice. Since then, Tracy and I have both been in several school performances. Tracy was even cast as the lead in "The Smoking Gun." We have a lot in common because we both enjoy the applause of the audience and the challenge that drama gives us. Drama has been really good for Tracy in particular because it has brought him/her out of his/her shell. Before joining drama club Tracy was really shy. Now, s/he is much more outgoing and assertive. Tracy is a natural for the stage; s/he has a touch for the dramatic and can make anyone believe whatever part s/he is playing.

High school would be great except for the athletes. They seem to pick on those of us in drama club for no good reason. I guess they think we're wimps just because we don't play sports - I don't know. Not all of them are that way, but Lee Jones sure is. Lee plays in several sports and seems to think that being a star athlete means that s/he owns the halls. S/He has been a real problem for Tracy and me. Lee always runs into us when we pass in the halls. I guess s/he likes to see us scramble to pick up our books. This has happened to me several times but Lee has never been caught doing it by any teachers or principals. Principal Fitts saw Lee bump Tracy in the hall one day about a month ago around the middle of January, but Fitts blamed Tracy as much as Lee. Fitts gave both Lee and Tracy detention and I got detention too, even though I was just standing there. Tracy was pretty upset that s/he had to miss basketball practice for the week. Lee and I were pretty mad that we got detention, too, especially since we didn't do anything wrong. Fitts never seems to see things the way they really are.

A couple of days ago Tracy and I were just standing at Tracy's locker getting our books for the next class. Tracy took a fake gun out of his/her locker to show me. It was a gun that had been used as a prop in the last school play, "The Smoking Gun." Tracy said that s/he thought it was a really cool prop

because it was like one that would be used on Broadway. When Tracy was showing me the prop gun Lee came up behind Tracy and started harassing him/her again. I thing s/he was still mad about getting detention and was blaming Tracy for it. Anyway, when Lee started in, Tracy spun around and told Lee to leave us alone. Tracy still had the gun in his/her hand. Lee began to back off all of a sudden and s/he told Tracy not to shoot. The next thing I remember was Officer Ander running toward us yelling at Tracy to drop the gun. I think Ander had his gun drawn which was totally crazy. S/He just got overexcited because nothing bad or criminal ever happens at Norton. Anyway, Tracy looked stunned. I don't thing s/he even remembered that s/he was holding the gun. The bell rang and kids came out of the classrooms in hoards. Before I knew it, Tracy was running down the hall away from Officer Ander. I was so surprised myself that I didn't see what happened to Tracy after s/he took off running. It all happened so fast!

When I heard that they charged Tracy with bringing a gun on school property and possession of a firearm I couldn't believe it. First of all, Tracy wasn't pointing the gun at Lee, s/he just happened to be holding it when s/he turned around. Also, there was no way that anyone looking at that gun could think it was real. It was really fake looking up close - it looked like a toy gun. Maybe it looked real if you saw it from a distance like an audience would - but that is a long distance away, not just a few feet. I think Lee was just trying to get Tracy in trouble. S/he is such a jerk. This is all Lee's fault. Tracy didn't do anything wrong.

SIGNED: Pat White
Pat White

WITNESS STATEMENT OF KERRY STEVENS

(Defense Witness)

Witness: Kerry Stevens
490 N.W. 14th Street
Norton, Oklahoma

Date: February 24, 1999
Time: 9:30 a.m.

My name is Kerry Stevens and I am a teacher at Norton High School. I have been teaching for thirteen years, all of it at Norton High. I have taught English each of my thirteen years and for the past five years I have taught drama and debate as well. It is a lot of extra work to teach drama and debate but I have found both to be very rewarding. When the students come to high school from the middle school, many of them are unsure of themselves and lack self-confidence in the high school environment. This is true especially if they do not already fit into a strongly established peer group. Students who have participated in middle school sports, for instance, often come to high school with a developed sense of self-confidence and feel themselves to be part of an interest group that carries on into the high school experience. For those students who don't participate in athletics, activities such as drama or debate can provide a useful tool for developing self-confidence and making friends with common interests in an unfamiliar environment. Tracy Smith is an excellent example of this.

Tracy transferred to Norton High a couple of years ago when s/he was a sophomore and s/he was placed in my homeroom class. Tracy was shy but seemed very bright and articulate. S/He didn't have friends because his/her family had just moved to Norton from Kansas City, and s/he seemed to have trouble fitting in and making friends. I tried to get him/her interested in debate but that really wasn't his/her thing. The drama club had auditions coming up for the performance of "My Fair Lady." I talked to Tracy about trying out for a small part and s/he finally agreed. At the auditions Tracy was nervous but s/he did great and managed to get a small speaking part. Drama club did wonders for Tracy. S/He quickly made a lot of friends and has been a very active club member. S/He is in every production that we put on and even managed to get the lead role in the most recent production of "The Smoking Gun."

This play required Tracy to use a gun as a prop. The gun used was fake but I thought that it looked quite real, at least from a distance. I can't say how it looked up close because I never really paid that close of attention to it. I usually just saw it when the students were practicing on stage. Anyway, Tracy really got a kick out of using the gun and used to carry it around with him/her on the set all the time. I didn't think that was odd, but I did hear Tracy tell his/her best friend, Pat White, that if s/he had a real gun like that his/her problems would be solved. I thought that was a little weird but I didn't think too much about it because Tracy

has a tendency to be dramatic. I also didn't worry about it too much because Tracy has never seemed confrontational. I have never seen him/her pick a fight or antagonize anyone. I know that Tracy and Pat had a disagreement in the hall with Lee Jones that landed them all in detention but I didn't see it and I can't imagine that it was Tracy's fault. In my experience, Tracy seems to get along well with others in class and drama club. That's why I was so surprised when I heard that s/he had been arrested for the crimes charged in this case. It just seems like a big mistake to me.

After the incident with the gun in the school hall on February 19, I went to the prop room to see if the fake gun that we used in the play was there. I could not find it.

SIGNED: Kerry Stevens
Kerry Stevens

STATEMENT OF MIRANDA RIGHTS

1. You have the right to remain silent.

2. Anything you say can and will be used against you in a court of law.

3. You have the right to talk to a lawyer and have him/her present with you while you are being questioned.

4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish.

5. You can decide at any time to use these rights and not answer any questions or make a statement.

WAIVER OF RIGHTS

I have read the above statement of my rights and I understand each of these rights. Having these rights in mind I waive them and willingly make a statement.

Signature: Tracy Smith Age: 18

Date of Birth: 1-17-81

Address: 265 N. Elm City: Norton State: Ks

Phone #: _____ Date: 2-20-99

Time: 9:45 am. Location: Norton Police Station

Witness: Officer Joe Will

Witness: _____

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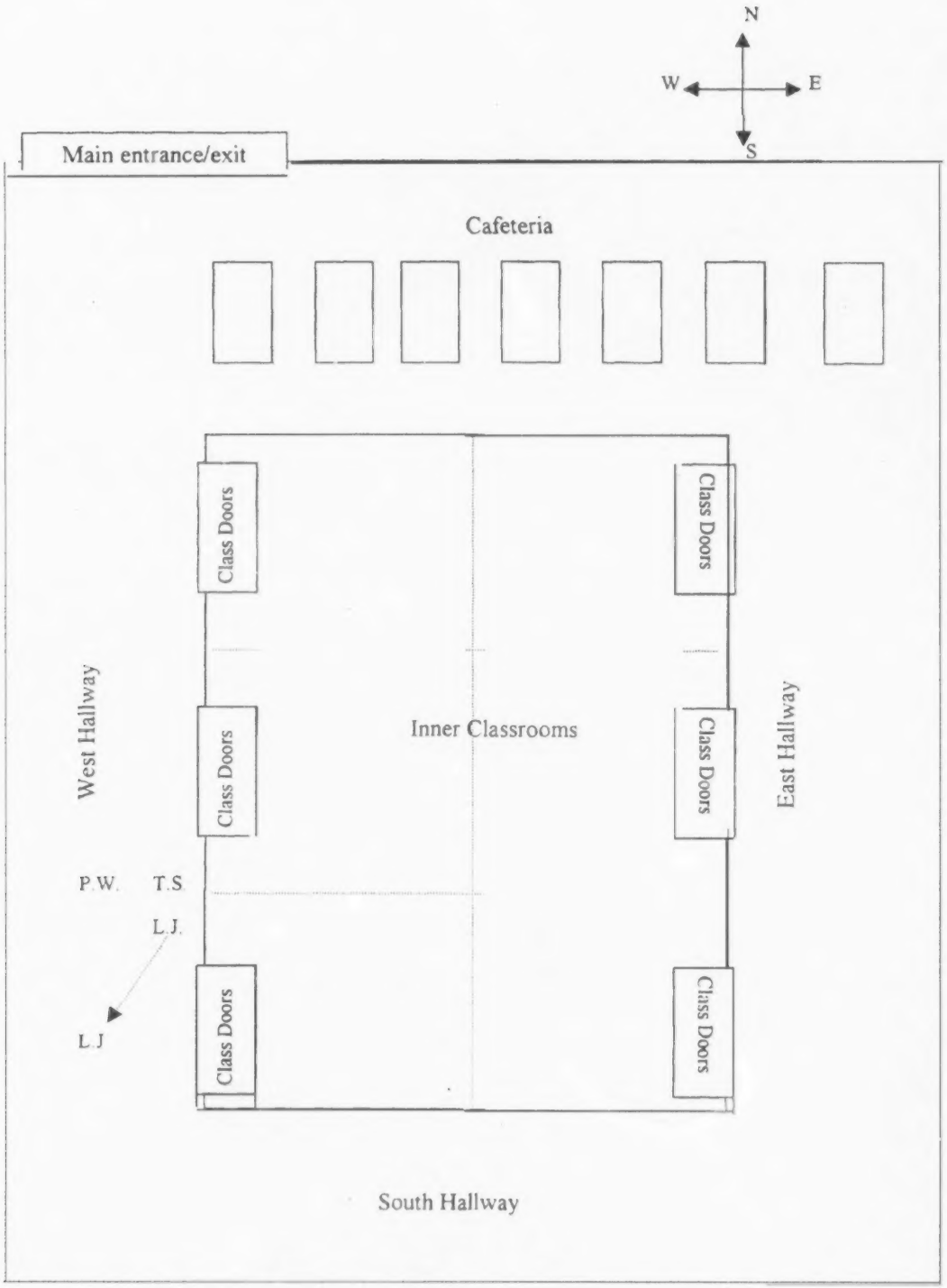
NORTON HIGH SCHOOL
DRAMA CLUB
PRESENTS

THE SMOKING GUN

Sketch prepared by Officer Alex Ander



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CONDUCT REPORT
NORTON HIGH SCHOOL

Student's Name(s)
Tracy Smith, Lee Jones Pat White

Date 1-15-99

Reporting teacher/administrator Taylor Fitts

Location of Incident West Hall

Infractions:

___Misuse or abuse of school or personal property
___Bullying or intimidating students
___Use of tobacco on school property
___Talking back to teacher or administrator
___Running in the building
___Refusing to follow instructions
___Inappropriate public display of affection
X Fighting
___Failing to turn in assignments
___Profanity or obscene gestures
___Other_____

Explanation:
I saw Tracy Smith and Lee Jones run into each other in the west hall. This caused Tracy to drop some books. Lee and Tracy became agitated at one another and appeared to argue with each other. I approached before they began to fight and separated the two. Pat White was standing near the incident and encouraged the fight by antagonizing Jones. It appeared that Smith and Jones were equally at fault.

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Actions taken:

All three students - Smith, Jones + Lewis - were given a week of detention starting today.

A copy of this report will be added to the student's permanent file. A copy will be provided to the student(s), the student's parents and the police, if required.

Taylor Fitz 1-12-99

Signature of Principal Date

Class of 2K Rocks!

Hey Tracy, I wish Lee "the jerk jock" Jones would just leave us alone. I'm getting sick + tired of him!

Yeah, I hate that dumb jock. I can't believe Fitts gave ALL of us detention! Lee started the whole thing. It's not fair. One of these days Lee is going to push me too far! He's going to regret messin' with me!!!

Drama rulz

IN THE DISTRICT COURT OF NORTON COUNTY

STATE OF OKLAHOMA

THE STATE OF OKLAHOMA, Plaintiff,	)	
vs.	)	CF-99-23
TRACY SMITH, Defendant.	)	

INFORMATION

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OKLAHOMA, COMES NOW THE DISTRICT ATTORNEY'S OFFICE IN AND FOR THE STATE OF OKLAHOMA AND THE COUNTY OF NORTON, AND INFORMS THE DISTRICT COURT THAT:

Count I: On or about the 19th day of February, 1999, in Norton County, Oklahoma, TRACY SMITH committed the crime of FELONIOUS POINTING OF FIREARMS, a felony, by willfully pointing a pistol at Lee Jones, for the purpose of threatening or with the intention of discharging the firearm or with any malice or for any purpose of injuring, either through physical injury or emotional intimidation or for purposes of whimsy, humor or prank, or in anger or otherwise.

Count II: On or about the 19th day of February, 1999, in Norton County, Oklahoma, TRACY SMITH committed the crime of POSSESSION OF A FIREARM ON SCHOOL PROPERTY, a felony, by unlawfully and willfully having in his/her possession a gun while in the hallway of Norton High School.

Ellen Cane
ASSISTANT DISTRICT ATTORNEY

State of Oklahoma)
) SS.
County of Norton)

I DO SOLEMNLY SWEAR THAT THE STATEMENTS AND ALLEGATIONS SET FORTH IN THE WITHIN INFORMATION ARE TRUE.

Alex Ander
ALEX ANDER, Affiant

Subscribed and sworn before me this 5th day of March, 1999.

Marilyn Isaak
Notary Public

My Commission Expires:

11-15-99
[SEAL]

Oklahoma High School Mock Trial Program

RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 101. Scope

These Simplified Federal Rules of Evidence (Mock Trial Version) govern the trial proceedings of the Oklahoma High School Mock Trial Program.

Rule 102. Purpose and Construction

These Rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.

Rule 103. Rulings on Evidence

(a) Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) Objection. In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) Offer of proof. In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

(b) Record of offer and ruling. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) Hearing of jury. In jury cases, proceedings shall be conducted, to the extend practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(d) Plain error. Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court.

Rule 104. Preliminary Questions

(a) Questions of admissibility generally. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevance conditioned on fact. When the relevance of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury. Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require, or when an accused is a witness and so requests.

(d) Testimony by accused. The accused does not, by testifying upon a preliminary matter, become subject to cross-examination as to other issues in the case.

(e) Weight and credibility. This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

Rule 105. Limited Admissibility

When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

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ARTICLE II. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

(a) Scope of rule. This rule governs only judicial notice of adjudicative facts.
(b) Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
(c) When discretionary. A court may take judicial notice, whether requested or not.
(d) When mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.
(e) Time of taking notice. Judicial notice may be taken at any stage of the proceeding.

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Definition of "Relevant Evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

All relevant evidence is admissible, except as otherwise provided in these Rules. Evidence which is not relevant (irrelevant evidence) is not admissible.

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Rule 404. Character Evidence not Admissible to Prove Conduct; Exceptions; Other Crimes

(a) Character evidence generally. Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(1) Character of accused. Evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same;

(2) Character of victim. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(3) Character of witness. Evidence of the character of a witness, as provided in Rules 607 and 608.

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Rule 405. Methods of Proving Character

(a) Reputation or opinion. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

(b) Specific instances of conduct. In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

Rule 406. Habit; Routine Practice

Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

ARTICLE VI. WITNESSES

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

Rule 607. Who May Impeach

The credibility of a witness may be attacked by any party, including party calling the witness.

Rule 608. Evidence of Character and Conduct of Witness

(a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination when examined with respect to matters which relate only to credibility.

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Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross-examination. The scope of cross-examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.

(c) Leading questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 612. Writing Used to Refresh Memory

If a written statement is used to refresh the memory of a witness either while or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross-examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.

Rule 613. Prior Statements of Witnesses

(a) Examining witness concerning prior statement. In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

(b) Extrinsic evidence of prior inconsistent statement of witness. Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in Rule 801 (d) (2).

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Rule 614. Calling and Interrogation of Witnesses by Court

(a) Calling by court. The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.
(b) Interrogation by court. The court may interrogate witnesses, whether called by itself or by a party.
(c) Objections. Objections to the calling of witnesses by the court or to interrogation by it may be made at the time or at the next available opportunity when the jury is not present.

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witnesses

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

Rule 703. Bases of Opinion Testimony by Experts

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

Rule 704. Opinion on Ultimate Issue

(a) Except as provided in subdivision (b), testimony in the form on an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

(b) No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.

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Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give reasons therefor without first testifying to the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement. A "statement" is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) Declarant. A "declarant" is a person who makes a statement.

(c) Hearsay. "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Statements which are not hearsay. A statement is not hearsay if:

(1) Prior statement by witness. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

(2) Admission by party-opponent. The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity, or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy.

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these rules.

Rule 803. Hearsay Exceptions; Availability and Unavailability of Declarant Immaterial

(a) The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment. Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) Recorded recollection. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack or trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Absence of entry in records kept in accordance with the provisions of paragraph (6). Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public records and reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil actions and proceedings and against the Government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(10) Absence of public record or entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, testimony that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(20) Reputation concerning boundaries or general history. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or State or nation in which located.

(21) Reputation as to character. Reputation of a person's character among associates or in the community.

Rule 804. Hearsay Exceptions; Declarant Unavailable

(A) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant--

(1) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(2) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b) (2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

(B) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement under belief of impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

Rule 807. Residual Exception

A statement not specifically covered by Rules 803 or 804 but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule, if the court determines that

(A) the statement is offered as evidence of a material fact;

(B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and

(C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence.

However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant.

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901. Requirement of Authentication or Identification

The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

Rule 902. Self-authentication

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(4) **Certified copies of public records.** A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with any Act of Congress or rule prescribed by the Supreme Court pursuant to statutory authority.

(5) **Official publications.** Books, pamphlets, or other publications purporting to be issued by public authority.

(6) **Newspapers and periodicals.** Printed materials purporting to be newspapers or periodicals.

(7) **Trade inscriptions and the like.** Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) **Acknowledged documents.** Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

ARTICLE X. MISCELLANEOUS RULE

These rules may be known and cited as the **Simplified Federal Rules of Evidence (Mock Trial Version)**.